

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388 (Sub-No. 91)

210405

CSX CORPORATION AND CSX TRANSPORTATION, INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
-CONTROL AND OPERATING LEASES/AGREEMENTS-
CONRAIL, INC. AND CONSOLIDATED RAIL CORPORATION



GENERAL OVERSIGHT

ENTERED
Office of Proceedings

MAR 26 2004

WRITTEN STATEMENT OF THE PORT
AUTHORITY OF NEW YORK AND NEW JERSEY

Part of
Public Record

I. INTRODUCTION

The Port Authority of New York and New Jersey ("the Port Authority") is an agency of the States of New York and New Jersey whose bi-state compact was approved by the Congress. Foremost among the statutory responsibilities of the Port Authority is the protection of the commerce of the New York/New Jersey Port District. The Port District, a statutorily defined area, is a district that is roughly a 25 mile radius around the Statue of Liberty, and includes virtually all of the North Jersey Shared Asset Area ("NJSAA") as that area was defined in the Application in this proceeding.

In its initial comments in this Oversight proceeding filed July 14, 2000, the Port Authority noted that several of its concerns voiced during the control proceedings were in fact being realized. Service had deteriorated, and the carriers were financially unable to make the necessary infrastructure investments to correct those problems. The Port Authority is pleased to

state that since those comments were filed, the carriers and the Port Authority have continually met to resolve mutual rail transportation problems. These productive meetings have survived the tragedy of September 11, 2001, and the parties are committed to continue their cooperative efforts even if formal oversight proceedings are discontinued.

II. PORT AUTHORITY CAPITAL EXPANSION

The facilities of a great port such as New York/New Jersey cannot be efficiently operated unless export/import traffic can move freely to and from the terminal facilities. The New York/New Jersey region is particularly challenged in this regard because of its large population and relatively constricted geographic area. Highway congestion, with its resulting negative economic and environmental consequences, is a constant problem.

Recognizing the expansion of export/import traffic, with the corresponding highway congestion attendant thereto, the Port Authority, beginning in the early 1990s began to invest in the expansion of its rail transportation capacity. The results have been remarkable. The Port's on-dock rail volumes increased from approximated 50,000 in 1993 to nearly 233,000 in 2003, an annual compound growth rate of 17 percent. For the first 23 weeks of 2004, the growth rate has been 23 percent. The 1993 to 2003 period saw the Port handle approximately 1.6 million on-dock rail containers. This was the equivalent of some 2.7 million truck trips.

Needless to say, such increases in rail volumes could not have been achieved without substantial Port Authority investment in rail and terminal facilities. Nor can we expect those increases to continue without an even greater investment program moving forward.

Accordingly, the Port Authority plans call for the investment of \$438 million between 2002 and 2009 to improve and expand intermodal rail capacity at facilities served by Conrail, Norfolk

Southern and CSX. This includes new or expanded on-dock rail terminals, new connections to improve rail access to marine terminals, associated storage and support yards and regional improvements all in the NJSAA. Most of these projects are in the design stage and many are already under construction. Specifically these projects include \$186.1 million for on-dock rail terminals; \$135.4 million for new connections; \$91.7 million for support yards; and \$25 million for New Jersey regional rail programs.

III. PORT AUTHORITY/CARRIER COOPERATION

Plainly, it would be highly imprudent to make plans and expend monies on rail infrastructure improvement without the constant cooperation of the rail carriers who would essentially operate over the connections and yards provided and serve the on-dock terminal facilities constructed. Similarly, the carriers would be ill-advised to tailor their operations, or to make investments within the Port District, particularly when dealing with intermodal traffic, without consulting with the Port Authority. To this point, all of the involved have operated in their own best interests by cooperating and coordinating their activities in the NJSAA. The Port Authority assumes that this cooperation and coordination will likely continue into the foreseeable future.

Events could, however, nullify this assumption. If, for example, one or both of the major carriers were to merge with or be acquired by other carriers, the competitive picture might well be dramatically altered. If, on the other hand, a different management philosophy were to be adopted by one or both of the carriers, again the competitive picture might be changed. In these circumstances, or others that cannot now be foreseen, the Port Authority would quite probably seek the intervention of this Board to protect the commerce of the Port District.

In the event of a merger or acquisition, the Port Authority would, to the extent that it could not reach agreement with the new entity, likely seek conditions be imposed to protect the Port District. In the event that new management philosophy causes some conditions that the Port Authority deems detrimental to the Port District, the Port Authority would seek additional conditions be imposed through these oversight proceedings, or should oversight be discontinued, through reopening of the underlying Finance Docket No. 33388.

IV. ONGOING OVERSIGHT

The Port Authority is aware that the Norfolk Southern and CSX will seek termination of the oversight proceedings at the end of the five year term of initial oversight prescribed in the Board's control decision. The Port Authority is also aware that some shipper and other interests may wish to seek oversight continued. Given the cooperation between the Port Authority and the carriers, and given the right of the Port Authority to petition to reopen the underlying docket, the Port Authority will neither support nor oppose termination of these oversight proceedings.

Respectfully submitted,

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY